

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054**

In the Matter of

City of Charlotte Request for Declaratory Ruling of )	
47 C.F.R. § 90.523(a) and 47 U.S.C. § 337(f)(1): )	DA 11-537
Clarification of Public Safety Services for )	PS Docket No. 06-229
Purposes of Eligibility to Operate on 700 MHz )	
Public Safety Broadband Spectrum )	

To: Chief, Public Safety and Homeland Security Bureau

**CITY OF MESA ARIZONA'S COMMENTS**

**TO THE CITY OF CHARLOTTE REQUEST FOR A DECLARATORY RULING**

The City of Charlotte, North Carolina ("Charlotte") has asked the FCC to clarify the permissible range of public safety operations on 700 MHz broadband spectrum. The City of Mesa Arizona ("Mesa"), like Charlotte, has been granted a conditional waiver by the FCC to deploy a 700 MHz broadband network and has entered into a spectrum lease with the Public Safety Spectrum Trust for the use of the necessary 700 MHz spectrum. That lease has been approved by the FCC.

Mesa is familiar with the issues related to the permissible use of this statutorily created spectrum allocation as most recently described in the Fourth Further Notice of Proposed Rulemaking in this proceeding. Mesa believes that there is a strong public interest argument in favor of also allowing secondary users such as utilities to operate on this spectrum, subject to

appropriate provisions to ensure the continued primacy of public safety communications and conformance with the intent of Congress.

The operational utility and financial viability of public safety broadband systems would be seriously, perhaps fatally, compromised should the FCC interpret the statute to limit the use of such networks to first responders exclusively.

Mesa agrees that police, fire and emergency medical communications must have priority access on the 700 MHz broadband network. That can be accomplished while allowing the communications of other governmental agencies to be carried on a secondary basis. The provision of police, fire and emergency medical services is an essential element in protecting the lives, health and property of our citizens, but other governmental activities also have a direct impact on those responsibilities. For example, employees charged with ensuring a clean water supply, or keeping electricity for air conditioning flowing on hot summer days, as well as those turning off the gas supply on a burning building, all help protect the public's personal safety and its property each and every day.

Isolating the communications of emergency response providers from those of these other governmental employees would have a disastrous effect on the very important movement toward increased interoperability. Interoperability has been endorsed by both the FCC and Congress as a critical component in the protection of our national as well as local security.

Of equal importance is the very real financial implication of such an interpretation.

Emergency response providers may be the most visible of our employees, but they are not the most numerous. It would not be economically viable to deploy a broadband network solely for their use. As was the case with vastly less complex and costly shared trunked systems, state, county and other local government entities need to promote the broadest possible migration of users to this new level of advanced technology so the cost of deployment can be widely distributed.

The Commission should remove restrictions on secondary uses and fixed uses, allowing local jurisdictions to make decisions on applications and priorities. Note: no commercial broadband 700 MHz wireless spectrum carries such restrictions today.

Mesa is confident that an affirmative response to the Charlotte request will not conflict with Congressional intent in allocating this spectrum for public safety use. Congress was responding to a showing of critical demand for additional public safety spectrum, a showing that was not limited to the needs of first responders only. Given the escalating emphasis on interoperability and recognition of the fiscal constraints under which governmental entities are operating, Congress surely would expect the FCC to adopt rules that facilitate interoperable communications and provide an economic foundation for deployment of broadband public safety networks.

## **SUMMARY**

- Congress allocated 700 MHz spectrum in response to documented public safety demand, a showing that was not limited to first responder requirements and that emphasized the need for interoperability.

- The Congressional objective of protecting safety of life and property and of promoting interoperability will be undermined by segregating the communications of emergency responders from those of other governmental users with whom they need to exchange information.
- Restricting use to police, fire and EMS will make it difficult and in many cases impossible to finance broadband deployment. The cost of these systems and their operating expenses must be spread among all agencies and departments to be economically viable.
- The FCC historically has trusted public safety entities to prioritize their own communications to meet the public interest and should do so in this instance as well.

Respectfully submitted,

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